



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 4353-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █, █,
USN, █

Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected consistent with references (b) and (c).
2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 6 May 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies, to include references (b) and (c).
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.
 - c. Petitioner enlisted in the Navy and began a period of active duty on 29 June 1970.
 - d. On 20 April 1971, Petitioner received non-judicial punishment (NJP) for violating Uniform Code of Military Justice Article 134, for wrongful use of marijuana. He did not appeal this NJP.

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e. On 19 April 1971, Petitioner was referred for a mental health evaluation after his command received an anonymous allegation relating to his homosexuality. Petitioner disclosed to the medical provider that he had experienced mild anxiety resulting from "homosexual tendencies." The medical provider noted, "[patient] is very much confused about his sexual identity, and his views on homosexuality are very liberal. [Patient] also related he has not participated in any homosexual acts while in the service and wishes to continue his military career." The evaluator found that Petitioner was "Psychiatrically cleared for any administrative action deemed appropriate by command including but not limited to administrative discharge."

f. Consequently, Petitioner was notified of the initiation of administrative separation proceedings by reason of "homosexual tendencies." Petitioner was notified of his right to submit statement, but that he was not entitled to a separation board because the command was pursuing an Honorable discharge.

g. Ultimately, Petitioner was administratively separated from the Navy, on 24 May 1971, with an Honorable discharge characterization by reason of homosexual tendencies and assigned an RE-4 reenlistment code.

h. Reference (c) sets forth the Department of the Defense's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with guidance to normally grant requests to change the narrative reason for discharge to "Secretarial Authority," SPD code to "JFF," and reenlistment code to "RE-1," when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) through (c), the Board concludes Petitioner's request warrants relief. The Board noted the misconduct in Petitioner's record but concluded that he was solely discharged on the basis of his homosexual tendencies vice misconduct. Therefore, the Board determined Petitioner is entitled to full relief under reference (c).

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

That Petitioner be issued a new DD Form 214 indicating that, on 24 May 1971, his narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," separation code as "JFF," and reentry code as "RE-1."

That no further changes be made to Petitioner's record.

A copy of this report of proceedings be filed in Petitioner's naval record.

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USN, [REDACTED]

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

5/31/2024

[REDACTED]